

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HRISTO "CHRIS" GOCHEV, a married)
individual, and KAISER) Case No. C22-159-MLP
ENTERPRISES, LLC,)
Plaintiffs,) PRETRIAL ORDER
v.)
FIRST AMERICAN PROPERTY &)
CASUALTY INSURANCE)
COMPANY,)
Defendant.)

JURISDICTION

Jurisdiction is vested in this court by virtue of 28 USC § 1332 diversity jurisdiction.
Defendant is a foreign corporation located in California, and plaintiffs are Washington residents.
The amount in controversy exceed \$75,000.

CLAIMS AND DEFENSES

The plaintiff will pursue at trial the following claims: breach of the duty to deal in good faith, violation of the Consumer Protection Act of Washington, and violation of the Insurance Fair Conduct Act. The defendant will pursue the following affirmative defenses and/or claims: Kaiser Industries is not an insured and therefore has no standing to bring any claim against First

1 American, none of plaintiffs' claims are covered, First American's claim practices were
2 reasonable, plaintiffs failed to give 20-day notice pursuant to RCW 48.30.015(8) prior to filing
3 suit and plaintiffs failed to mitigate their damages, if any.

4 **ADMITTED FACTS**

5 The following facts are admitted by the parties:

6 1. Mr. Gochev purchased a homeowners' insurance policy from First American
7 covering the residence where his former wife lives, 21527 Poplar Way, Brier, WA 98035. Mr.
8 Gochev moved out of the location on Poplar Way in 2018 and into his residence where this loss
9 occurred, at 21508 SR 9 SE, Woodinville, Washington.

10 2. On January 12, 2021, a major windstorm occurred which blew down several trees
11 on a different lot owned by Hristo "Chris" Gochev. This is the location where Mr. Gochev resides
12 and where he operates his business.

13 3. At the time of this loss, Gochev was residing at that property and used it to store
14 several personal items and a large amount of equipment on the property personal and/or for
15 business use. His company was Kaiser Enterprise, LLC. Kaiser does excavation and construction
16 work.

17 4. On the property was a storage container, a freight shipping container, a box truck
18 and a city bus which they used for storage, all of which were severely damaged because trees had
19 fallen on them along with other property.

20 5. Gochev reported the loss to First American on January 20, 2021 and First
21 American confirmed receipt of the claim and requested that Gochev provide photos of the
22 damage and that he prepare an inventory of damaged property that day.

23 6. First American issued an initial payment of \$2,000.00 for a storage container on
24 February 23, 2021. The claims process then took several months and a final payment was issued
25

1 after September 30, when they paid an additional 20,581.99 on the claim. Plaintiff does not
2 dispute the amount of the payment.

3 7. During the claims process, Gochev and Kaiser were asked to store the damage
4 property on the premises. Mr. Gochev claims that this interfered with his personal life and his
5 business.

6 Outside Presence of Jury:

7 8. Plaintiff sent a notice of IFCA claim over 20 days prior to filing, but defendant
8 claims that the notice was legally insufficient. This issue is a matter of law for the court to decide
9 outside the presence of jury.

10 **ISSUES OF LAW**

11 The following are the issues of law to be determined by the court:

- 12 1. Did defendant violate the Insurance Fair Conduct Act, CPA, and breach the duty to act in
13 good faith?
14 2. Was plaintiff's IFCA notice insufficient?
15 3. Is Kaiser entitled to recover any of the claimed damages?
16 4. Is Gochev entitled to recover any of the claimed damages?

17 **EXPERT WITNESSES**

- 18 (a) Only plaintiff has named an expert.
19 (b) Stephen L. Strzelec, 7647 Splashing Falls Drive, Las Vegas Nevada; 206-427-4322

20 **OTHER WITNESSES**

21 The names and addresses of witnesses, other than experts, to be used by each party at the
22 time of trial and the general nature of the testimony of each are:

- 23
24 (a) On behalf of plaintiff:
25

1. Hristo Gochev, co Brooks Law Firm, 8201 164th Ave. NE, Suite 200, Redmond, WA 98052 (425)296-9025. Gochev will testify as to his claims and damages both for he and Kaiser.

2. Darrell M. Harber, Harber Appraisal, 621 Pacific Ave., Suite 17, Tacoma, WA 98402. Darrell M. Harber will testify regarding property damage, the claim, the claims handling, and whether and when damage should have been paid.

3. Elizabeth Williamson, office manager with Kaiser Trucking, who may be reached Kaiser's counsel Ray Brooks, 8201 164th Ave. NE, Suite 200, Redmond, WA 98052, 425-296-9025. Will testify as to the claims and damages suffered by Mr. Gochev and Kaiser.

(b) On behalf of defendant:

1. Rory Leid, of WATHEN, LEID, HALL, RIDER P.C. at 222 Etruria Street | Seattle, WA 98109 206.622.0494. Mr. Lied will testify as to his efforts to get Mr. Gochev to appear for his Examination Under Oath, the documents requested from, and provided by Mr. Gochev, and the subject matter of the Examination Under Oath.

2. Employees of Kaiser Enterprises, LLC who were present during clean-up of the debris.

3. Representative of Strikecheck, who was retained by First American to inspect the inventory contents claimed.

4. Darrell Harber of Harber Appraisal, Mr. Gochev's public adjuster.

EXHIBITS

Identify each exhibit with a number, which becomes the number for the exhibit at the trial and appears on the exhibit tag with the following information in table format:

Plaintiff's Exhibits

Ex.	Description	Authenticity	Admissibility	Objection	Admitted
1.	Photos(2021-0629)				
2.	Photos (1)				
3.	Photos Satelite View				

- 1 4. Photos of Damages (1-30)
- 2 Images 3584-3792
- 3 5. Invoice from Affordable Storage
- 4 6. Letter to Rory Lied August 17, 2021
- 5 7. Damages Estimates folder provided by request of Defendant
- 6 8. IFCA Notice
- 7 9. Insurance Payment of Claim
- 8 10. Letter Explaining Coverage and Paying Claim
- 9 11. Internal FA Claims Documents
- 10 12. Communications by Defendant
- 11 13. Payments made on claims by Defendant
- 12 14. Inventory Taken on Claim by Defendant
- 13 15. Corres. Leid re EUO date
- 14 16. Corres. Leid 4-28-21 re EUO and to send certified copy of policy
- 15 17. Corres. Leid 9-21 requesting more documents
- 16 18. Corres. Leid 6-21-23 regarding inspection and more information
- 17 19. ROR Letter to Claimant
- 18 20. COR Brooks 041421
- 19 21. Email Stating Why Cancelling Inspection
- 20 22. COR Brooks 0482021
- 21 23. Letter to EUO Attorney Re Issues
- 22 24. COR Brooks 070221
- 23 25. Email of May 7, 2021 from G. Peloquin with Attachments
- 24 26. Email of April 28, 2021 from Jan Sherred with Attac
- 25

Defendant's Exhibits

Exhibit No.	Description	Bates Number	Authenticity	Admissibility
101	Photo 1	IMG 3695		
102	Photo 2	IMG 3741		
103	Photo 3	IMG 3743		
104	Photo 4	IMG 3739		
105	Photo 5	IMG 3742		
106	Photo 6	IMG 3693		
107	Photo 7	IMG 3771		
108	Photo 8	IMG 3774		
109	First American Claim Diary	FA000110-FA000115		
110	Correspondence form Peloquin to Gochev. 1/20/2021	FA001104-FA001106		
111	Email Peloquin to Gochev 1/20/2021	FA000116-122		
112	Letter from Peloquin to Harber 2/10/2021	FA001111-1117		
113	Email and Ltr. of Rep. from Harber to Peloquin. 2/9/2021.	FA000159-FA000168		
114	Correspondence from Peloquin to Harber. 2/10/2021	FA001111-FA001117		
115	Email from Harber to Peloquin. 2/15/2021	FA000169-FA000177		
116	Email from Peloquin to Gochev. 2/19/2021	FA000188		
117	Email from Peloquin to Lathrop. 2/19/2021	FA000200-FA000202		
118	\$2,000 check for storage unit. 2/23/2021.	FA001313		
119	Email from Peloquin to Lathrop. 2/24/2021	FA000212-FA000215		
120	Email from Peloquin to Lathrop. 3/1/2021	FA000275 – FA000281		
121	Email from Peloquin to Lathrop. 3/17/2021	FA000453-FA000455		
122	Email from Lathrop to Peloquin. 3/26/2021	FA000473		

123	Cleanup invoice. 3/28/2021	FA001762		
124	Corresp. from Peloquin to Lathrop. 3/30/2021	FA001122- FA001127		
125	Correspondence from Brooks to Peloquin. 4/1/2021	FA001128		
126	Corresp. from Peloquin to Brooks. 4/12/2021	FA001131- FA001133		
127	Corresp. from Leid to Brooks. 4/14/2021.	FA001134- FA001136		
128	G4S Report. 4/15/2021	FA001139- FA001142		
129	Shipping Container Invoices. 3/4/2021 – 4/20/2021.	Examination Under Oath Ex. 8		
130	Email from Harber to Peloquin. 4/21/2021	FA000580- FA000586		
131	Correspondence from Leid to Brooks. 4/28/2021	FA001143- FA001144		
132	Report from G4S. 4/30/2021	FA001145- FA001149		
133	Email from Sherred to Brooks. 5/25/2021	FA000685- FA000687		
134	Email from Leid to Brooks. 5/25/2021	FA000689- FA000695		
135	Correspondence from Leid to Brooks. 6/4/2021	FA001152- FA001153		
136	Supplemental report from G4S. 6/21/2021	FA001156- FA001158		
137	Correspondence from Leid to Brooks. 6/21/2021.			
138	Correspondence from Leid to Brooks. 7/2/2021	FA001159- FA001160		
139	Correspondence from Leid to Brooks. 7/26/2021	FA001163- FA001164		
140	Inventory Form with invoices. Undated.	FA001354- FA001357		
141	Kaiser Enterprises Property Inventory and Invoice. 8/10/2021	FA001789- FA001790		
142	Email from Leid to Brooks confirming receipt of inventory (EX. 130). 8/18/2021.	FA000875- FA000876		

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143	Correspondence from Leid to Brooks. 8/23/2021	FA001168		
144	Correspondence from Leid to Brooks. 8/31/2021	FA001169-FA001182		
145	Correspondence from Leid to Brooks with Examination Under Oath transcript. 9/1/2023	FA001183-FA001291		
146	Correspondence from Leid to Brooks. 9/13/2021	FA001294		
147	Email from Brooks to Leid. 9/22/2021	FA001074-FA001077		
148	Correspondence from Peloquin to Brooks. 9/28/2021	FA001298-FA001302		
149	\$20,581.99 payment from First American to Gochev	FA001321		
150	Correspondence from Brooks to First American Notice of IFCA Claim. 12/7/2021.			
151	IFCA Cover Sheet. 12/8/2021			
152	Correspondence from Leid to Brooks. 12/18/2021	FA0001310-FA0001311		
153	Gochev's First American Policy			
154	Kaiser's Enterprises, LLC's Liberty Mutual Policy			
155	Progressive Commercial Auto Policy			
156	Cleanup invoice. Undated.	FA001795-FA001803		
157	Cleanup invoice. Undated.	FA001795-FA001803		
158	Invoices from Kaiser Enterprises for cleanup. Undated.	Examination Under Oath Ex. 7		

1 The parties are not objecting each other's exhibits based upon authenticity, but may have
2 objections based on relevance or may redact some exhibits based upon the court's pre-trial
3 rulings.

4 **ACTION BY THE COURT**

- 5 (a) This case is scheduled for trial before a jury on October 16, 2023.
6 (b) Trial briefs shall be submitted to the court on or before October 4, 2023.
7 (c) Jury instructions requested by either party shall be submitted to the court on or
8 before October 4, 2023. Suggested questions of either party to be asked of the jury by the court on
9 voir dire shall be submitted to the court on or before October 4, 2023.

10 This Order has been approved by the parties as evidenced by the signatures of their
11 counsel. This Order shall control the subsequent course of the action unless modified by a
12 subsequent order. This Order shall not be amended except by Order of the court pursuant to
13 agreement of the parties or to prevent manifest injustice.
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15 DATED this 13th day of October, 2023.

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17 

18 MICHELLE L. PETERSON
19 United States Magistrate Judge
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FORM APPROVED

Dated this **October 4th, 2023.**

BROOKS LAW FIRM



By _____
Ray C. Brooks, WSBA No. 37768
Attorney for Plaintiff

DATED this 4th day of October, 2023.

KILMER, VOORHEES & LAURICK, P.C.

s/Robert S. May

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